

UNITED STATES DISTRICT COURT - SOUTHERN DISTRICT OF TEXAS

Julio A. Zuniga et al.,

VS.

PATRICK O'DANIEL et al.,

CIVIL ACTION # 3:22-CV-00052

United States Courts
Southern District of Texas
FILED

MAY - 9 2022

5/4/22 - WED.

DECLARATION OF JULIO (A) ZUNIGA

Nathan Ochser, Clerk of Court

@ 4:40^{pm} - 4:50^{pm} ON L-LINE 1-19. CELL AND OFFICER WAS SENT TO HARASS ME, AND WRITE Bogus Disciplinary Case. WARDEN CHEVALIER WAS WALKING THE Memorial Unit - Hallway @ Lunch Hour, THEY REFUSED TO TURN ON T.V., AND REFUSED ACCESS TO LAW LIBRARY. RETALIATION ON BRIAN CAVETT, WAS WITNESSED BY ME, BY "Charlotte McKnight", ON MR. CAVETT, ... THE SAME "CAPTAIN" THAT RETALIATED ON ME, WHEN I FILED 3:22-CV-00052 ... THE FACT THAT WARDEN CHEVALIER WAS HERE, LET ME KNOW THAT SHE HAD HIM FOLLOWED AND HARASSED ON CAMERA, FOR WINNING A PREVIOUS LAWSUIT OUT OF "HOUSTON DIVISION". BRIAN COLLIER WAS HERE LAST WEEK ON FRIDAY 4/29/22. NOW, WARDEN CHEVALIER WHO IS NOT ASSIGNED HERE, CAME TO RETALIATE ON INMATE CAVETT AND MYSELF. OUR MAIL IS BEING "INTENTIONALLY TAMPERED" WITH BY EVERY SINGLE ADMINISTRATOR AND "ALEXANDRIA FORD" IS OPENING UP LEGAL MAIL, AND "MEDIA" ON US TO SIMPLY DO IT, ... MALICIOUS/ EVIL INTENT. THE MEN ARE STILL TESTING POSITIVE FOR H-PYLORI, ... FOR OVER ONE YEAR NOW. MICHAEL FREDRICKSON JUST REPORTED IT TO ME, "DELEGATE" X386969. ALL OF THE ABOVE IS TRUE AND CORRECT, AND ON CAMERA 5/4/22 (ALL DAY)

Julio A. Zuniga

Respectfully Submitted

Julio A. Zuniga #1961581
59 DARTMOUTH RD.

ROSHARON, TEXAS 77583

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From : Sam Rosen, CustomerID: 18006078
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Location : DA
Housing : L-1 19

*ACA, TBCJ, TDCJ ONLY PUMP A/C
FOR Administration and Medical,
the workers ARE FORCED to SUFFER EVEN DEEPER
working Plantation*

Hey Z, I wanted to ask, are you in touch with Texas Prison Reform? If not, their address is:
Texas Prison Reform
P.O Box 671
Kaukauna, WI 54130
They're asking for people to send in their accounts of life at TDCJ, seems like it could be a good connection.
Also, the Intercept recently ran this article:

Boiling Behind Bars
In Sweltering Texas, Prisons Without Air Conditioning Are About to Get a Lot Hotter

Alleen Brown

February 12 2022, 2:00 p.m.
Climate and Punishment

The Intercept mapped climate risks for 6,500 detention facilities. In some already miserable places, the suffering is set to intensify.

(ACA)
(TBCJ)
During the year Justin Phillips spent in an unair-conditioned segregation cell at the Coffield Unit, a state prison near Palestine, Texas, the soaring temperatures took a toll. All but eight days of June 2018 saw the heat index rise above 110 degrees. The blood pressure medicine Phillips takes to treat a rare kidney condition made him ill in high heat, so he would skip doses. At times, he said, guards failed to escort him to take his other medications.

(TBCJ)
"Someone diagnosed with pauci-immune glomerulonephritis" — Phillips's diagnosis — "could get in trouble in a hurry if they're exposed to heat, regardless of medications," said Aaron Bernstein, an expert on climate and health at Harvard University's School of Public Health.

(TBCJ)
With treatment, patients with the condition are expected to have a 75 percent five-year survival rate. By the time he left prison last year, Phillips had end-stage renal failure, and doctors told him the likelihood of surviving five years was 40 percent.

(TBCJ)
"I feel like they gave me a possible death sentence," said Phillips, who is now 42, of the Texas prison system. "I don't think they care."

(ACA)
(TBCJ)
(TDCJ)
The Coffield Unit is among the hottest places in the nation for incarcerated people, according to an Intercept analysis of extreme heat in more than 6,500 jails, prisons, and detention centers across the U.S. — and it's getting worse. As of 2020, Coffield was one of 21 Texas state prisons with no air conditioning, according to public records obtained by the Texas Prisons Air-Conditioning Advocates, an organization Phillips's wife, Casey, founded.

That he was transferred out of his sweltering cell at all, Justin said, was only due to Casey's relentless advocacy. After months of calls, emails, and formal complaints, Justin was transferred to an air-conditioned unit. Four days before he was moved, the heat index outside the Coffield Unit was recorded at 127 degrees.

Desperation spurred Casey Phillips to turn her work on her husband's case into statewide activism. As an advocate, Casey reserves much of her ire for one man: "Honestly, it's Greg Abbott that doesn't care. It's him," she said, referring to Texas's Republican governor.

For more than a decade, Abbott has been a key figure stymying the fight for air conditioning in Texas carceral facilities. When he was the state attorney general, Abbott defended the Texas Department of Criminal Justice from heat lawsuits. Today he sets the agenda for legislative sessions — where heat-relief bills, like the ones pushed by advocates like Casey Phillips, go to die. Casey was blunt about Abbott's role in the stalled legislation: "He's the problem."

The heat index at the Coffield Unit reached 127 degrees, four days before Justin Phillips was transferred to an air conditioned unit, according to a temperature and heat index log recorded outside the prison

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The heat index at the Coffield Unit reached 127 degrees four days before Justin Phillips was transferred to an air-conditioned unit, according to a temperature and heat index log recorded outside the prison.

Image: Public records from the Texas Department of Criminal Justice obtained by Casey Phillips

Texas is ground zero in the fight over air conditioning in prisons. Data compiled and analyzed by The Intercept shows that Texas has more jails, prisons, and detention centers impacted by severe to extreme heat than any other state. Nine in 10 of the state's carceral facilities are in places with more than 50 days a year of 90-plus-degree heat indexes; projections show that temperatures will only rise.

The state prison system has spotty air-conditioning coverage at best. When the information was last made public in 2020, parts or the whole of around 70 Texas prisons, with a combined capacity of 122,000 potential inmates, had no air conditioning.

"If any other Texan doesn't have AC, they can be in a shaded situation. They can drink more water. They can take a shower," said Ariel Dulitzky, a human rights lawyer at the University of Texas at Austin School of Law and the co-author of a report on heat in prisons. "Persons deprived of their liberty are under the absolute control of the state. They cannot do anything."

"Incarcerated people will always be at the bottom rung in terms of targeting of resources."

The push for air conditioning in Texas prisons is among the first fights like it in the nation, but it's unlikely to be the last: With the climate crisis raising temperatures across the nation, the battle being waged in Texas will spread. According to the data reviewed by The Intercept, by the end of the century thousands of prisons across the U.S. — from New Jersey to Minnesota — will experience the kind of heat Texas sees today. Nobody seems to be ready. And, as in Texas, easing prisoners' conditions is unlikely to be at the top of the political agenda.

"Prisons using AC to keep people safe will draw a lot of resources," said Carlee Purdum, a specialist on disasters affecting prison populations at Texas A&M University. "And incarcerated people will always be at the bottom rung in terms of targeting of resources."

The Intercept mapped heat risk for more than 6,500 jails, prisons, Immigration and Customs Enforcement holding facilities, and juvenile detention centers using data from the Union of Concerned Scientists and a 2020 register of detention facilities from the Department of Homeland Security. Map: Akil Harris, Fei Liu, Alleen Brown/The Intercept

To assess the dangers of the climate crisis for people behind bars, The Intercept cross-referenced the locations of more than 6,500 detention centers across the U.S. against both historic county-by-county heat data collected by the nonprofit Union of Concerned Scientists and the group's projections for how hot weather will increase. The group used the heat index, which incorporates humidity, for its data, because an outdoor temperature reading on a thermometer doesn't capture how the body struggles in humid conditions with high temperatures.

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For each county, the group calculated the historical average number of days each year surpassing heat index readings of both 90 and 105 degrees. According to the National Weather Service, a heat index over 90 degrees merits "extreme caution"; the agency says that over 105 is dangerous. A prison that lacks air conditioning can be even hotter inside than the outdoor heat index might suggest.

Hundreds of thousands of incarcerated people are being subjected to prolonged periods of high heat every year, according to The Intercept's analysis, which relied on a 2020 Department of Homeland Security register to map jails, prisons, Immigration and Customs Enforcement holding facilities, and juvenile detention centers. More than a third of the detention facilities in the U.S. have historically had more than 50 days a year, on average, with a heat index above 90 degrees, the data suggests. That includes nearly every detention facility in Louisiana, Mississippi, Alabama, Florida, and Oklahoma. There are no federal laws mandating climate control in carceral facilities, and none of those states' corrections departments require universal air conditioning in state prisons. Nearly 100 facilities in Texas are located in counties with more than 10 days annually over 105.

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Top States by Number of Carceral Facilities With Severe to Extreme Heat

Read more about the data and methodology.

Graphic: Soohie Cho for The Intercept

Long spells of high heat, though, aren't the only concern. Acute health issues can arise from brief temperature spikes in places where people and infrastructure aren't prepared to deal with it. A short but sudden heat wave in the Northeast, for instance, could be more deadly than a prolonged period at the same temperature in Arizona. Research by Julie Skarha, a graduate affiliate at the Institute at Brown for Environment and Society, shows that a heat index above 90 degrees in a prison in the Northeast can increase mortality by as much as 18 percent.

Heat index measurements will also mean different things for different people. People taking certain medications — including a class of drugs known as psychotropics that treat a range of mental illnesses, which are common among the incarcerated — are particularly sensitive to heat.

Jennifer Vanos, an expert on extreme heat at Arizona State University's School of Sustainability, said, "The people who tend to be most impacted by heat are those who are sick, on medication, or have preexisting conditions that put them at a higher risk of heat death."

How much future prisoners suffer in the heat — and how many die — will depend on what policymakers do, both to stop runaway global warming and to improve conditions inside carceral facilities.

No amount of greenhouse gas emission cuts will change the fact that existing carceral facilities are about to get hotter. What's unclear is how much worse things will get. That depends on governments' success in transitioning economies from fossil fuels to energy sources that do not produce greenhouse gases, such as solar or wind energy.

By the end of the century, if massive steps aren't taken to combat the climate crisis, it's likely that nearly three-quarters of U.S. carceral institutions will experience more than 50 days a year with a heat index over 90 degrees, levels today associated with hotter regions of the country. Historically, only 224 facilities in seven states were in places with more than 10 days over 105 degrees. By 2100, more than half of the prisons, jails, and detention centers in the U.S. — 3,544 facilities in 32 states — will reach that level.

The impact will be dramatic in both historically hot and cool places. Facilities in the Midwest, the Northeast, and the Pacific Northwest that are unaccustomed to high heat will begin to see dangerous days over 105 degrees every year. Other parts of the country will see unprecedented stretches of heat. No carceral institution today is located in a county with more than 50 days a year at 105 degrees; by 2100, almost 700 will be, mostly in Texas, Florida, and Louisiana. Graphic of hot days for detention centers to increase dramatically by the end of the century

By the end of the century, thousands of U.S. detention facilities will see sustained dangerous temperatures — sometimes running more than 50 days a year. The only way to protect incarcerated people will be for city, county, state, and federal policymakers to act, investing significant resources in installing functioning climate control systems or reducing the number of people in the carceral system.

The fight over air conditioning in Texas prisons, though, shows what it takes to force incremental action on heat in prisons — and the lack of political interest that makes progress so difficult.

In July and August 2011, at least 10 people died of heat-related causes in Texas prisons. Several of the victims' families sued Texas in federal district court. Other suits followed, including one filed by people incarcerated at an unair-conditioned medical and geriatric prison known as the Wallace Pack Unit.

The attorney for the Pack Unit prisoners argued that they were being subjected to Eighth Amendment violations — cruel and unusual punishment — because the state knew about the conditions and did nothing about it. The plaintiffs also pointed to the Americans with Disabilities Act and argued that reasonable accommodations had not been provided to people with heat-sensitive disabilities. As attorney general at the time, Abbott represented the Texas

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MEMO
UNIT

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Department of Criminal Justice in federal court.

Texas was forced to sign a settlement in 2018 in which the state agreed to air-condition the prison. Soon after, the Texas Department of Criminal Justice announced that by the end of 2021 it would make air-conditioned beds available to prisoners with the highest risk of heat-related illnesses. It also introduced new measures prisons must take when the heat index rises above 90 degrees, such as providing additional water and giving fans to incarcerated people. Tens of thousands of people, though, would still be left behind bars in severe heat.

Within weeks of the 2018 settlement, Casey Phillips, alongside other prisoners' family members and formerly incarcerated people, launched the Texas Prisons Air-Conditioning Advocates, the precursor to Texas Prisons Community Advocates.

A year later, under pressure from the organization, the first bill to provide funding for air conditioning in all Texas prisons was introduced in the state Legislature. And in 2021, another version of the air-conditioning legislation sailed through with bipartisan support in the Texas House of Representatives, only to die in committee in the Senate.

Things have since stalled. When a special legislative session was called last fall, with Abbott setting the agenda, advocates could not convince him or statehouse leaders to put an air-conditioning bill on the table. With Texas's infrequent legislative sessions, prisoners won't get another chance at relief until 2023.

"It means more deaths. It means more medical issues," said Amite Dominick, who now leads Texas Prisons Community Advocates. "It means family members worrying when their loved ones on the inside tell them, 'I can't take it anymore.'"

"If we can't get anyone to help us, how are these other families that don't have experience advocating for loved ones going to get justice?"

In a statement to The Intercept, Robert Hurst, a spokesperson for the Texas prisons authority, said, "Core to this department's mission is protecting the public, our employees, and the inmates in our custody. It is a responsibility that the Texas Department of Criminal Justice takes seriously." He said the agency gives incarcerated people access to ice, water, fans, and, when needed, air-conditioned respite areas.

An automated heat sensitivity score identifies people with health-related illnesses who should be prioritized for air-conditioned beds, Hurst added. He declined to explain how the score is calculated or whether the agency has fully implemented the program.

A list of health problems that would qualify priority placement does not include kidney disease.

To his family's great relief, Justin Phillips came home in the spring of 2021. He's hoping to eventually get on a kidney transplant list, but for now he goes to dialysis three times a week. Meanwhile, years of fighting for other people left Casey Phillips behind in caring for her own health. She stepped down as president of the organization she started to take care of herself, her husband, and their kids.

The Phillipses want to take the prison and state to court to hold them accountable for Justin's worsening illness. So far they have been unable to find an attorney to take their case. "If we can't get anyone to help us," Casey asked, "how are these other families that don't have experience advocating for loved ones going to get justice?"

5/4/22

Julio A. Zuniga

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